IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 17993 of 2007(P)

OS.935/2005 of PRL.SUB COURT,THRISSUR

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PETITIONER:

T.S.INDIRA, W/O.K.S.KRISHNANKUTTY,
'KARTHIKA', KRISHNA GARDENS, VELLATTU LANE,
TRICHUR-1.

BY ADV. SRI.V.V.ASOKAN
SMT.S.AMINA

RESPONDENTS:

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1. VIJAYAN, S/O.PUZHANKARA RAMANAN,
KRISHNA HOUSE, GURUVAYOOR ROAD, POONKUNNAM ,
TRICHUR.

2. RAJAN T.S.,
S/O.LATE THAZHATH SANKARAN EZHUTHACHAN,
MALATHI MANDIRAM, VELLATT LANE, TRICHUR-1.

3. KRISHNANUNNI, S/O. -DO-,-DO-.

4. UNNIKRISHNAN, S/O.-DO-,-DO-.

5. MEENA RAJAN , D/O. -DO-,-DO-.

6. MALATHI KRISHAKUMAR, W/O.KRISHNAKUMAR,
PADINJARE THALAKKAL, VELLATT LANE, TRICHUR-1.

7. GEETHA, W/O.PALAPUZHA RAGHUNATH,
MALATHI MANDILRAM, VELLATT LANE, TRICHUR-1.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.(C) No.17993 OF 2007 P
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Dated this the 15th June, 2007

J U D G M E N T

This writ petition is filed seeking a direction to the Sub Court, Thrissur, to hear and dispose of I.A. No. 2642/07 and also to keep the order passed in I.A. Nos. 7083, 7084 and 7105 of 2005 in abeyance. The suit is one for partition. It is averred that the parties are entitled to 1/7 shares each and there is an order of injunction restraining the parties from alienating the property and when the said order was in force one of the defendants had assigned the properties thereby committing violation of the order of the court. The subsequent purchaser has got impleaded in the suit and had filed applications for return of the documents after substituting the same to the certified copies. The apprehension of the writ petitioner is that with the documents which he takes back he wants to pledge them before the bank and construct a building thereby materially altering and detrimentally affecting the right of the co-owners in the property. Therefore he requests that the petition which he has filed as I.A.

No. 2642/07 for an injunction be disposed of by the court after hearing both sides and till that time the orders passed returning the documents may be kept in abeyance. I am convinced that after there is an order of injunction and that has been violated and the new party wanted to construct a building as held in ***Kassinkunju v. Velayudhan Pillai*** (1972 KLT 861) a co-ownership property cannot be used in such a way which will detrimentally affect the right of other co-owners. Therefore, the Subordinate Judge, Thrissur, before whom the matter is pending is directed to dispose of I.A. No. 2642/07 within a time frame of six weeks and till that time the orders passed in I.A. Nos. 7083, 7084 and 7105/05 will be kept in abeyance and the documents be not returned back to the parties who had applied for the same.

The writ petition is disposed of accordingly.

M.N. KRISHNAN
JUDGE

jan/